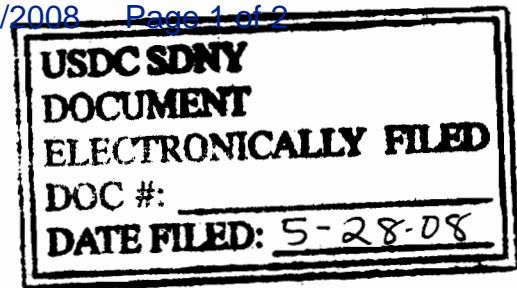


THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
 100 CHURCH STREET  
 NEW YORK, NY 10007



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May 27, 2008

**BY HAND DELIVERY**

Honorable Leonard B. Sand  
 United States District Judge  
 Southern District of New York  
 500 Pearl Street  
 New York, New York 10007

Re: Benedict Toro v. City of New York, et al.,  
 07CV 3011 (LBS)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the above referenced matter. For the reasons set forth below, defendants respectfully request that Your Honor compel plaintiff to respond to all outstanding discovery by June 6, 2008, as well as a thirty day extension of the discovery deadline for the sole purpose of conducting plaintiff's deposition, once all outstanding discovery is received from plaintiff. Defendants further request that Your Honor endorse the enclosed Order for plaintiff's transfer from Hale Creek Correctional Facility to Sing-Sing Correctional Facility so that his deposition can be conducted. Finally, defendants respectfully request that Your Honor refer this matter to Magistrate Judge Eaton for a settlement conference.

As Your Honor is aware, on or about December 12, 2007, the parties appeared for an initial conference. At that time, Your Honor set forth a discovery schedule. Under cover letter dated January 4, 2008, defendants served plaintiff with discovery requests and a notice of deposition. On January 18, 2008, plaintiff requested an additional two weeks to respond to defendants' discovery requests. Accordingly, on or about February 18, 2008, the undersigned received plaintiff's purported discovery responses. However, these responses failed to include any responses to defendants' interrogatories, as well as failing to completely execute the accompanying releases. As such, under cover letter dated March 12, 2008, the undersigned re-sent defendants' discovery requests to plaintiff and requested that he completely and fully respond. Also in the March 12<sup>th</sup> letter, defendants offered to settle this matter and provided plaintiff with the necessary settlement paperwork.

On or about April 11, 2008, the undersigned again received plaintiff's purported discovery responses. However, plaintiff still failed to respond to the interrogatories.

**MEMO ENDORSED**

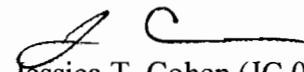
MEMO ENDORSED

Accordingly, by the letter dated April 17, 2008, defendants again requested that plaintiff respond to the interrogatories by April 30, 2008, or we would be forced to seek judicial intervention. The April 17<sup>th</sup> letter also informed plaintiff that defendants intended to request that Your Honor refer this matter to Magistrate Eaton for a settlement conference. To date, plaintiff has still failed to respond to defendants' interrogatories, which were served almost 5 months ago.

Without plaintiff's responses to defendants' discovery demands, defendants have not been in a meaningful position to prepare for plaintiff's deposition. Defendants would like the opportunity to review plaintiff's responses prior to conducting plaintiff's deposition. Accordingly, defendants respectfully request that Your Honor compel plaintiff to respond to the outstanding discovery by June 2, 2008, as well as an additional thirty days to conduct plaintiff's deposition. To that end, enclosed please find a proposed order for plaintiff's transfer from Hale Creek Correctional Facility to Sing-Sing Correctional Facility so that his deposition can be conducted on June 19, 2008. Since Hale Creek Correctional Facility and the New York State Department of Correctional Services require ten business day's notice in order to arrange for plaintiff's transfer, defendants can arrange to have a messenger retrieve the Order from the Chambers once it is signed. Defendants further request that Your Honor refer this matter to Magistrate Eaton for a settlement conference to be held prior to plaintiff's deposition but after plaintiff has responded to the outstanding discovery.

Accordingly, for the reasons set forth herein, defendants respectfully request the following: (1) that plaintiff be compelled to respond to all outstanding discovery by June 6, 2008; (2) a thirty day extension of the discovery deadline for the sole purpose of conducting plaintiff's deposition; (3) that Your Honor endorse the enclosed Order arranging for plaintiff's deposition; and, (4) that this matter be referred to Magistrate Eaton for a settlement conference. Thank you for your consideration of these requests.

Respectfully submitted,

  
Jessica T. Cohen (JC 0044)  
Assistant Corporation Counsel

Enc.  
CC: BENEDICT TORO #07-A-4590  
PLAINTIFF *PRO SE*  
HALE CREEK ASACTC  
P.O. BOX 950  
279 MALONEY ROAD  
JOHNSTOWN, NEW YORK 12095

**MEMO ENDORSED**

**COPIES MAILED TO ALL PARTIES**

5-28-08 SY.

Enclosure  
*Benedict Toro*  
*is to respond to all interrogatories*  
*and sign and return all*  
*releases.*  
*case referred to Magistrate*  
*Judge Eaton for settlement*  
*conference.*  
*to address 5/28/08*  
*5/28/08*